

TESLA, INC.,

 Plaintiff,

 v.

 ALEX KHATILOV.

 Defendant.

Case No.: 4:21-cv-00528

**[PROPOSED] ORDER GRANTING
 STIPULATED PRELIMINARY
 INJUNCTION AND EVIDENCE
 PRESERVATION ORDER**

 Judge Yvonne Gonzalez Rogers

 Complaint Filed: January 22, 2021

WHEREAS on January 22, 2021, this Court entered a Temporary Restraining Order, Order to Show Cause why a preliminary injunction should not be entered, and an Evidence Preservation Order;

WHEREAS, pursuant to the Temporary Restraining Order, Tesla provided via email to Alex Khatilov on January 22 at 2:53 p.m. 1) a copy of the Temporary Restraining Order; 2) notice of how to file his opposition, if any, online; and 3) resources concerning self-representation available at www.cand.uscourts.gov/pro-se-litigants/ and www.cand.uscourts.gov/wp-content/uploads/2020/02/Pro_Se_Handbook_2020_links.pdf;

WHEREAS, Mr. Khatilov has elected to proceed *pro se* to date;

WHEREAS, Tesla's counsel and Mr. Khatilov spoke on the phone on January 23, and have subsequently continued phone and email communication.

WHEREAS, after attempting service at his home every day from January 22-26, Tesla personally served Mr. Khatilov at his home with the complaint, papers supporting the motion for the temporary restraining order, the summons, and the Temporary Restraining Order on January 26; *see attached Affidavit of Service*;

WHEREAS, Mr. Khatilov has provided a number of devices to Tesla for imaging, some on January 25 and more on February 1;

WHEREAS, the parties are currently engaging in rapid voluntary discovery that does not currently require the Court's intervention at this stage; if this voluntary discovery breaks down and requires the Court's intervention, the parties will promptly inform the Court;

WHEREAS, the parties have prepared and reviewed the below Proposed Preliminary Injunction Order and Proposed Evidence Preservation Order (together, the "Proposed Orders") and stipulate and consent to their entry from now through trial;

[PROPOSED] PRELIMINARY INJUNCTION ORDER

THEREFORE, from today's date until the conclusion of trial, Alex Khatilov is **HEREBY**:

1. **ENJOINED AND RESTRAINED** from obtaining, retaining, using, transmitting, disseminating, or disclosing any of Tesla's quality assurance files that Khatilov downloaded, transferred, or otherwise obtained from Tesla's servers during his employment with Tesla between December 28, 2020 and January 6, 2021, including any information contained within or deriving from those files (together, the "Tesla Trade Secrets");
2. To the extent not already done, **REQUIRED** to return to Tesla, within three (3) days, all Tesla equipment, tangible materials, and information that remain in Khatilov's possession, custody, or control, including but not limited to any emails, files, records, or other documents

that Khatilov downloaded, removed, or otherwise obtained from Tesla, whether original or duplicate;

3. To the extent not already done, **REQUIRED** to identify for Tesla, by hand delivery or electronically within three (3) days, all other desktop and laptop computers, internal and external hard drives, USB storage devices, flash drives, thumb drives, memory cards, read/writable optical media (including CD-ROMs and DVD-ROMs), cloud storage accounts (including Dropbox), email accounts, tablet devices (including iPads), smartphones, other storage devices or accounts, or hard copy documents (collectively “Media”), belonging to or in Khatilov’s possession, custody, or control, that contain any Tesla Trade Secrets (together, the “Identified Media”);

4. To the extent not already done, **REQUIRED** to produce to Tesla, by hand delivery or electronically within three (3) days, the Identified Media, or allow Tesla’s agents, including any computer forensic experts, to forensically preserve and mirror/image said Identified Media (which mirrored data shall be kept confidential by Tesla until such time as the Court redesignates any portion thereof under a protective order);

5. To the extent not already done, **REQUIRED** to provide to Tesla, by hand delivery or electronically within three (3) days, all logins, user IDs, passwords, and any other processes necessary to obtain access to any operating system, database, server, software, file, or other storage location for the Identified Media within Khatilov’s possession, custody, or control; and

6. To the extent not already done, **REQUIRED** to identify for Tesla, by hand delivery or electronically within three (3) days, any other persons, entities, or locations (including any Media) not within Khatilov’s possession, custody, or control, to which Khatilov has transmitted, disseminated, disclosed, or stored any Tesla Trade Secrets.

EVIDENCE PRESERVATION ORDER

IT IS FURTHER ORDERED THAT:

Defendant Alex Khatilov, as well as any persons in active concert or participation with him, is hereby **ORDERED** to preserve all evidence in accordance with applicable federal and state rules, and to **CEASE, DESIST, AND REFRAIN** from deleting, destroying, removing, altering, modifying, concealing, spoliating, or secreting any documents or information relating to this lawsuit in any way, no matter where such information resides, including any documents or information stored on any computer or other Media (as defined in the Preliminary Injunction). This Order includes all documents relating to Tesla Trade Secrets (as defined in the Preliminary Injunction), Khatilov's employment with Tesla from December 28, 2020 to January 6, 2021, and Khatilov's communications (including emails, texts, and chats) with Tesla, as well as its respective employees, contractors, customers, competitors, vendors, suppliers, or agents.

IT IS SO ORDERED.

Dated: February ___, 2021

YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE

STIPULATION AND CONSENT BY ALEX KHATILOV

I, Alex Khatilov, am currently proceeding in this matter *pro se*. I have reviewed the Proposed Preliminary Injunction Order and Proposed Evidence Preservation Order above. I hereby consent and stipulate to entry of those Proposed Orders from now until trial is concluded. I also stipulate to extension of the current Temporary Restraining Order and Evidence Preservation Order from February 4, 2021 until the entry of the Proposed Orders by the Court.

Signature: Alex Khatilov

Date: February 2, 2021

STIPULATION AND CONSENT BY TESLA, INC.

I, Joseph Alm, Senior Counsel for Litigation for Tesla, Inc. have reviewed this order on behalf of Tesla. Tesla hereby consents and stipulates to entry of the Proposed Preliminary Injunction Order and Proposed Evidence Preservation Order from now until trial is concluded. Tesla also stipulates to extension of the current Temporary Restraining Order and Evidence Preservation Order from February 4 until the entry of the Proposed Orders by the Court. I further confirm that I received the above-signed stipulation and consent from Alex Khatilov's email after confirming during a phone call with Mr. Khatilov at 10:55 a.m. that he would sign the above consent and stipulation electronically.

Signature: Joseph Alm

Date: February 2, 2021

JOSEPH C. ALM, State Bar No. 294362
Tesla, Inc.
901 Page Avenue
Fremont, California 94538-734
jalm@tesla.com
(650) 681-5000

Counsel for Plaintiff
TESLA, INC.

WILSON SONSINI GOODRICH & ROSATI - NEW YORK, NY 1301 AVENUE OF THE AMERICAS - 40TH FLOOR NEW YORK, NY 10019

AFFIDAVIT OF SERVICE

Client's File No.:

Case Number:

5:21-cv-00528

Date Filed:

January 22, 2021

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA- SAN JOSE DIVISION



TESLA, INC.,

VS

ALEX KHATILOV

Plaintiff

Defendant

STATE OF CALIFORNIA COUNTY OF SAN MATEO SS.:

The undersigned being duly sworn deposes and says: that deponent is not a party to this action, is over 18 years of age and resides in the State of California

That on the following date: January 26, 2021, at the following time: 2:17 PM,

at 556 CHESTNUT AVENUE, SAN BRUNO, CA 94066 deponent served the within

SEE DOCUMENT LIST ATTACHED

☒ Papers so served were properly endorsed with the Case Number and date of filing.

Upon: ALEX KHATILOV a/k/a SABIR KHATILOV a/k/a ALEX TILOV

☒ Individual By delivering a true copy thereof to said recipient personally; deponent knew the person so served to be the individual describer☐ Responsible Person By delivering to and leaving with a true copy thereof, a person of suitable age and discretion. Said premises being the defendant / respondent's [] dwelling place [] place of business/employment [] last known address within the State. [] usual place of abode Relationship☐ Mail A copy thereof was deposited in a postpaid, properly addressed envelope, marked "Personal and Confidential" in a depository maintained by the U. S. P. S. and mailed first class mail to the above address☐ Corporation LLC / LLP By delivering to and leaving with said individual to be who specifically stated he/she was authorized to accept service on behalf of the Corporation/Government Agency/Entity.☐ Affixing To Door By affixing a true copy thereof to the door, being the defendant/respondent's [] dwelling place [] place of business/employment [] last known address within the State. [] usual place of abode☐ Previous Attempts Deponent previously attempted to serve the above named defendant/respondent on:

Description of Recipient Sex: Male Color of skin White Color of hair: Black Age: 51 - 65 Yrs. Height: 5ft 9inch - 6ft 0inch Weight: 161-200 Lbs. Other Features:

☐ WITNESS FEES Subpoena Fee Tendered in the amount of \$☒ MILITARY SERVICE I asked the person spoken to whether defendant was in active military service of the United States in any capacity whatever and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated.☐ Other

Sworn to before me on

See attached report

PROCESS SERVER - PRINT NAME BELOW SIGNATURE

Tony Klein

PROCESS SERVER LICENSE #

Work Order # 1449570

- COMPLAINT *for Trade Secret Misappropriation and Breach of Contract* against Alex Khatilov and Civil Cover Sheet, dated 1/22/21
- Corporate Disclosure Statement by Tesla, Inc., dated 1/22/21
- Emergency MOTION for Temporary Restraining Order *to Prevent Further Trade Secret Misappropriation* filed by Tesla, Inc., dated 1/22/21 and supporting papers
- CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by Tesla, Inc., dated 1/22/21
- ORDER GRANTING EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER, dated 1/22/21
- Initial Case Management Scheduling Order with ADR Deadlines, dated 1/25/21
- Summons Issued as to Alex Khatilov, dated 1/25/21
- STANDING ORDER RE: PRETRIAL INSTRUCTIONS IN CIVIL CASES (Judge Yvonne Gonzalez Rogers)
- STANDING ORDER IN CIVIL CASES (Judge Yvonne Gonzalez Rogers)
- STANDING ORDER FOR ALL JUDGES OF THE NORTHERN DISTRICT OF CALIFORNIA

JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss:
County of San Mateo)

Subscribed and sworn to (or affirmed) before me on this 27th day of January 2021, by Tony Klein, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(Seal) Signature

Romy Ibarra-Klein

